

REMARKS

By the present amendment, withdrawn claims 6, 8-9 and 14-20 have been amended to delete the expressions introduced by “preferably,” “in particular,” “such as,” and “especially,” and withdrawn claim 10 has been amended to correct its dependency to claim 4 instead of claim 1.

Claims 1-25 are pending in the present application. However, claims 4-10 and 13-20 are withdrawn from consideration following a restriction requirement.

Restriction requirement

In the Office Action, the restriction requirement is maintained, and a non-extendible one-month period for petitioning under 37 C.F.R. 1.144 is set forth.

A petition under 37 C.F.R. 1.181 for review of the restriction requirement under 37 C.F.R. 1.144 is submitted with this paper.

In addition, or in the alternative, reconsideration and withdrawal of the restriction requirement is respectfully requested.

Present claim 4 is formally dependent on elected claim 1, and claims 1 and 4 are specifically subcombination B^{sp} and combination AB^{sp}, this relationship being explicit by way of the claim dependency, so that restriction is not appropriate (see MPEP 806.05(c)(I)). The other withdrawn claims are dependent directly or indirectly on claim 4.

In particular, this application is a US national stage of an international (PCT) application, so “unity of invention” applies. Claim 4 dependent on claim 1 includes all the limitations of claim 1, so claim 1 and claim 4 have at least these “common special technical features” that

define “unity of invention” under PCT Rule 13.1 (see MPEP 1893.03(d)). Therefore, restriction is improper and should be withdrawn.

Further, reference is made to the “rejoinder” directives of MPEP Chapter 800, which state:

When *all* claims to the nonelected invention(s) depend from or otherwise require all the limitations of an allowable claim, applicant **must** be advised that claims drawn to the nonelected invention have been rejoined and the restriction requirement has been withdrawn.”

MPEP 821.04(a). Thus, withdrawn claim 4 and the claims dependent directly or indirectly on claim 4 should be rejoined and examined in this application.

In conclusion, maintaining the restriction requirement would be contrary to the Patent Office rules and practice, and unfair to Applicant, as it would entail additional costs of a divisional application to have the withdrawn claims considered. It would also be inefficient for the Patent Office since examination of the divisional would substantially duplicate the already-performed examination in this application.

In view of the above, withdrawal of the restriction requirement and consideration of all pending claims together in this application is respectfully requested.

Conclusion

In conclusion, the invention as presently claimed is patentable. It is believed that the claims are in allowable condition and a notice to that effect is earnestly requested.

Application No.: **10/541,202**
Art Unit: **1785**

Amendment under Ex parte Quayle
Attorney Docket No.: **052737**

If there is, in the Examiner's opinion, any outstanding issue and such issue may be resolved by means of a telephone interview, the Examiner is respectfully requested to contact the undersigned attorney at the telephone number listed below.

If this paper is not considered to be timely filed, the Applicants hereby petition for an appropriate extension of the response period. Please charge the fee for such extension and any other fees which may be required to Deposit Account No. 50-2866.

Respectfully submitted,
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